

**In the
Indiana Supreme Court**



IN THE MATTER OF THE)	
)	
APPROVAL OF LOCAL RULES)	Case No. 49S00-1205-MS-274
)	
FOR MARION COUNTY)	

ORDER APPROVING AMENDED LOCAL RULES FOR MARION COUNTY

The Judges of the Marion Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E) and Ind. Criminal Rule 2.2. Attached to this Order are the proposed amended local rules.

Pursuant to the *Schedule for Adoption of County Caseload Allocation Plans* established under Administrative Rule 1(E), the courts of Marion County must review and either readopt or submit new caseload allocation plans in each odd-numbered year. By an Order dated September 8, 2010, this Court granted a request for exemption from compliance with Administrative Rule 1(E) as it related to the Traffic Division of Marion Superior Court. In said Order, this Court also directed the Marion County judges to take concrete steps that would by, January 1, 2012, reduce the difference in utilization between the Traffic Division and the division with the lowest utilization to at least one half of the 7.15 difference, which existed at that time. Thereafter, this Court approved additional time for the Marion County Courts to complete a study conducted by the National Center for State Courts.

Upon examination of the proposed local rule amendments submitted by the Marion Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR49-AR1(E)-302, LR49-TR3-200, LR49-CR2.2-100 and LR49-CR2.3-101 comply with this Court's Order of September 8, 2010 in regard to the caseload of the Traffic Division of the Superior Court. We find further that, in all other respects, the proposed local rules meet the requirements of Ind. Administrative Rule 1(E) and Ind. Criminal Rule 2.2. Accordingly, we find that the local rules should be approved and posted in the county clerk's office and on the county clerk's website, if any, and on the Indiana Judicial Website.

We applaud the Executive Committee of the Marion County Superior Court and the Judge of the Marion County Circuit Court for developing a plan that cuts in half the caseload disparity between the Traffic Division and all other divisions. The Committee and Judge of the Circuit Court must continue to review and improve future caseload plans so that all divisions of superior and circuit courts meet the caseload disparity limits set by Administrative Rule 1(E). We find further that our approval of the request for exemption regarding the Traffic Division caseload should continue until December 31, 2013 and may be reconsidered by this Court if requested and appropriately supported by data by the Marion County courts on or before the caseload plan due to be filed with the Division of State Court Administration on June 1, 2013.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules , LR49-AR1(E)-302, LR49-TR3-200, LR49-CR2.2-100 and LR49-CR2.3-101 for Marion County Circuit and Superior Courts, set forth as an attachment to this Order, are approved effective retroactive to January 1, 2012. IT IS FURTHER ORDERED THAT approval of the request for exemption regarding the Traffic Division Caseload shall continue until December 31, 2013.


The Clerk of this Court is directed to forward a copy of this Order to the Honorable Louis F. Rosenberg, Marion Circuit Court, 200 East Washington Street, W506, Indianapolis, IN 46204-3339; the Honorable Robert R. Altice, Jr., Marion Superior Court, 200 East Washington Street, W241, Indianapolis, IN 46204-3322; the Honorable Cynthia J. Ayers, Marion Superior Court, 200 East Washington Street, W442, Indianapolis, IN 46204-3338; the Honorable Lisa Borges, Marion Superior Court, 200 East Washington Street, W203, Indianapolis, IN 46204; the Honorable Kimberly J. Brown, Marion Superior Court, 200 East Washington Street, G024, Indianapolis, IN 46204; the Honorable Linda E. Brown, Marion Superior Court, 200 East Washington Street, E608, Indianapolis, IN 46204; the Honorable Sheila A. Carlisle, Marion Superior Court, 200 East Washington Street, W242, Indianapolis, IN 46204; the Honorable Thomas J. Carroll, Marion Superior Court, 200 East Washington Street, W542, Indianapolis, IN 46204-3341; the Honorable David Certo, Marion Superior Court, 902 Virginia Avenue, Indianapolis, IN 46203; the Honorable Annie Christ-Garcia, Marion Superior Court, 200 East Washington Street, T541, Indianapolis, IN 46204; the Honorable Barbara A. Collins, Marion Superior Court, 200 East Washington Street, E643, Indianapolis, IN 46204; the Honorable Barbara Cook Crawford, Marion Superior Court, 200 East Washington Street, T1221, Indianapolis, IN 46204; the Honorable David J. Dreyer, Marion Superior Court, 200 East

Washington Street, T1441, Indianapolis, IN 46204; the Honorable Steven Eichholtz, Marion Superior Court, 200 East Washington Street, E439, Indianapolis, IN 46204; the Honorable Kurt Eisgruber, Marion Superior Court, 200 East Washington Street, W202, Indianapolis, IN 46204; the Honorable John F. Hanley, Marion Superior Court, 200 East Washington Street, T1421, Indianapolis, IN 46204; the Honorable Grant W. Hawkins, Marion Superior Court, 200 East Washington Street, W305, Indianapolis, IN 46204; the Honorable Reuben B. Hill, Marion Superior Court, 200 East Washington Street, W342, Indianapolis, IN 46204; the Honorable Michael D. Keele, Marion Superior Court, 200 East Washington Street, T1221, Indianapolis, IN 46204; the Honorable Patrick L. McCarty, Marion Superior Court, 200 East Washington Street, W406, Indianapolis, IN 46204-3338; the Honorable Robyn L. Moberly, Marion Superior Court, 200 East Washington Street, W507, Indianapolis, IN 46204-3341; the Honorable Marilyn Ann Moores, Marion Superior Court, 2451 North Keystone Avenue, Indianapolis, IN 46218-3604; the Honorable William J. Nelson, Marion Superior Court, 200 East Washington Street, E607, Indianapolis, IN 46204-3341; the Honorable Timothy W. Oakes, Marion Superior Court, 200 East Washington Street, T1442, Indianapolis, IN 46204; the Honorable Carol J. Orbison, Marion Superior Court, 200 East Washington Street, W343, Indianapolis, IN 46204; the Honorable James B. Osborn, Marion Superior Court, 200 East Washington Street, E450, Indianapolis, IN 46204; the Honorable Becky Pierson-Treacy, Marion Superior Court, 200 East Washington Street, T442, Indianapolis, IN 46204; the Honorable S.K. Reid, Marion Superior Court, 200 East Washington Street, T542, Indianapolis, IN 46204; the Honorable Clark Rogers, Marion Superior Court, 200 East Washington Street, T401, Indianapolis, IN 46204; the Honorable Marc T. Rothenberg, Marion Superior Court, 200 East Washington Street, E648, Indianapolis, IN 46204; the Honorable Jose Salinas, Marion Superior Court, 200 East Washington Street, T441, Indianapolis, IN 46204; the Honorable David A. Shaheed, Marion Superior Court, 200 East Washington Street, W407, Indianapolis, IN 46204; the Honorable Theodore M. Sosin, Marion Superior Court, 200 East Washington Street, W443, Indianapolis, IN 46204; the Honorable Mark D. Stoner, Marion Superior Court, 200 East Washington Street, W306, Indianapolis, IN 46204; the Honorable Heather Welch, Marion Superior Court, 200 East Washington Street, T1760, Indianapolis, IN 46204; the Honorable William E. Young, Marion Superior Court, 9049 East Tenth Street, Indianapolis, IN 46229; the Honorable Gerald S. Zore, Marion Superior Court, 200 East Washington Street, W541, Indianapolis, IN 46204-3307; to the Clerk of the Marion Circuit

and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Marion Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 15th day of May 2012.



Brent E. Dickson
Chief Justice of Indiana

LR49-AR 1(E)-302¹ Rules on Caseload Allocation

A. Purpose. Caseload allocations shall allow the judges of the Marion Superior Court to make thoughtful, timely, reasonable and just decisions.

B. Procedure. The Executive Committee shall at least annually:

1. Review and assess literature on case flow management from any source with a view toward the improvement of the Court's case flow from filing to disposition;
2. Review and consider suggestions made by members of the bar, the public and other interested parties; and
3. Review and analyze the statistics or current workload and case flow within the Court.
 - a. Civil cases shall be assigned in accordance with LR49-TR3-200 Random Filing of Civil Cases. Criminal cases shall be filed in accordance with LR49-CR 2.2-100 Random Assignment of Criminal Cases and LR49-CR 2.3-101 Case Consolidation.
 - b. Allocate Judicial Officers where appropriate to keep within the weighted caseload requirements of no more than a .40 deviation between any two courts.
 - c. Any change involving caseloads, whether it is type of case or number of cases, shall require a majority vote of the Executive Committee and is subject to review under LR49-AR00-300(F)(2).
 - d. In deciding changes, the Executive Committee shall give due weight to the expertise and abilities of each judge, the stress associated with the types of cases and caseloads, and the goal of keeping each judge competent in the various areas of the law. Seniority shall be a consideration, but not the determinant factor for caseload allocation or courtroom assignment.
 - e. As new judges are appointed or elected to the Court, the Executive Committee shall assign them to courtrooms using the same criteria.

C. Implementation. The Clerk of the Court shall maintain systems as required to implement orders of the Court relating to case allocation.

D. Record Keeping. All matters of statistics and case flow management shall be collected and maintained by personnel in the office of Marion County Court Administration. All judges and their staffs shall be responsible for the collection and preparation of these statistics in a form and manner directed by the Executive Committee.

¹ See Supreme Court Order regarding Local Rules for Caseload Management issued on September 8, 2010

LR49-TR3-200 RANDOM FILING OF CIVIL CASES

A. All civil cases filed with the Marion County Clerk's Office designated by statute or rule as being required to be filed in certain named Courts shall be so assigned.

B. Cases involving a petition for a restricted driving permit under I.C. 9-24-15-2 shall be filed in the Marion County Circuit Court; and all other petitions filed pursuant to I.C. 9-24-15-4(a)(1), (2) or (3) may, at the discretion of the Judge of the court in which the petition was filed, be transferred as soon as possible to the Marion County Circuit Court.

C. Civil Plenary (PL), Mortgage Foreclosure (MF), Civil Collections (CC), Civil Torts (CT), and Domestic Relations (DR) cases shall be allocated at follows:

1. Civil Plenary (CP/PL) cases
 - a. 1% shall be randomly filed in Circuit Court, and
 - b. 99% shall be filed in Superior Court, divided randomly and evenly among the judges of the Civil Division (49D01, 49D02, 49D03, 49D04, 49D05, 49D06, 49D07, 49D10, 49D11, 49D12, 49D13, and 49D14).
2. Mortgage Foreclosure (MF) cases
 - a. 5% shall be randomly filed in Circuit Court, and
 - b. 95% shall be filed in Superior Court, divided randomly and evenly among the judges of the Civil Division (49D01, 49D02, 49D03, 49D04, 49D05, 49D06, 49D07, 49D10, 49D11, 49D12, 49D13, and 49D14).
3. Civil Collections (CC) cases
 - a. 1% shall be randomly filed in Circuit Court, and
 - b. 99% shall be filed in Superior Court, divided randomly and evenly among the judges of the Civil Division (49D01, 49D02, 49D03, 49D04, 49D05, 49D06, 49D07, 49D10, 49D11, 49D12, 49D13, and 49D14).
4. Civil Torts (CT) and Domestic Relations (DR) cases
Shall be assigned in the proportion of 100% in Superior Court, divided randomly and evenly among the judges of the Civil Division (49D01, 49D02, 49D03, 49D04, 49D05, 49D06, 49D07, 49D10, 49D11, 49D12, 49D13, and 49D14).

- D. Marion Superior Court F12 (Environmental Court) shall be assigned the following cases:
1. Any civil case where the environment is involved as the lead issue or where a decision of an environmental administrative agency is being appealed;
 2. Any civil action that includes a count based upon or involving Indiana Code Title 13/ Environment or Title 14/ Natural and Cultural Resources;
 3. Any civil action requiring judicial review from final agency action involving an environmental matter;
 4. Department of Revenue UST and solid waste fee tax warrants;
 5. Common law theories of recovery such as toxic torts, property contamination cases alleging nuisance, trespass, negligence and environmental cleanup and contribution actions;
 6. Open Door and Public Record suits or appeals related to IDEM, DNR, ISHD, State Fire Marshall or the Fire Prevention and Building Safety Commission; and
 7. Contract or other disputes involving a substantive environmental issue.
- E. Civil cases involving judicial review of a zoning decision pursuant to IC 36-7-4-1601 et seq. shall be filed in Marion Superior Court, Civil 7 (D07).
- F. Civil cases requiring judicial review of a final State Agency decision under Article 21.5 of the Indiana Administrative Orders and Procedures Act (I.C. 4-21.5 et seq.) shall be randomly assigned.

All civil cases other than those listed above filed with the Marion County Clerk's Office for the Marion Superior Court shall be assigned to an individual courtroom on a random basis. The process for the random assignment shall be done through the Court and Clerk's automated case management system.

LR49-CR2.2-100 RANDOM ASSIGNMENT OF CRIMINAL CASES

(a) All criminal cases filed in Marion County in the Superior Courts shall be assigned to an individual courtroom on a random basis. The random assignment rule for criminal cases does not apply to certain cases designated by the Court and Prosecutor as belonging in the:

- domestic violence courts; or
- protection order court; or
- major felony and class D felony drug court; or
- community court; or
- traffic court; or
- mental health court or
- those cases involved in LR49-CR2.3-101 Case Consolidation.

This rule strives for the equalization of caseload among all of the individual courtrooms.

(b) All hearings for Major Felony cases will be conducted in the Major Felony Court. Any new filing for a major felony case shall be randomly assigned to one of the multiple courtrooms designated as Major Felony Courts (G01, G02, G03, G04, G05, and G06) with the exception of a major felony drug offense case and a major felony handgun case which shall be assigned to court G20.

(c) Initial hearings for all Class D Felony Cases that are the result of a custodial arrest where the defendant is still in custody shall be conducted in the Initial Hearing Court (F11). These cases shall be subsequently assigned on a random basis to one of the multiple courtrooms designated as Class D Felony Courts (F09, F15, F18, F24 and F25). The random assignment rule for criminal cases does not apply to D felony cases involving allegations of domestic violence or to Class D felony cases designated as drug court cases. Cases involving an allegation of domestic violence shall be randomly assigned to either of the domestic violence courts (G16 and G17). Class D felony drug cases shall be assigned to the D felony drug court (G14).

(d) Initial hearings for cases involving Misdemeanor Cases that are a result of a custodial arrest where the defendant is still in custody shall be conducted in the Initial Hearing Court, Court 11. These cases shall be assigned on a random basis to one of the multiple courtrooms designated as Misdemeanor Courts (F07, F10 and F19). Misdemeanor cases involving allegations of domestic violence shall be randomly assigned to either of the domestic violence courts (G16 and G17). Misdemeanors involving allegations of violations of traffic laws, with the exception of Operating a Vehicle While Intoxicated, shall be assigned to the Traffic Court (F13). Misdemeanors where the alleged offense occurred within the boundaries of the Community Court Project shall be assigned to the Community Court (F12). All Misdemeanor and D Felony cases in which the defendant has a mental illness and /or mental disability, as determined by law enforcement, APC staff, prosecutor, defense counsel, judge or medical staff, shall be filed in mental health court (F08).

(e) In the event that a defendant has a Misdemeanor or D Felony Domestic Violence case, and that case is amended to include a class C Felony charge, that case shall stay in the Domestic Violence Court to which it was originally assigned.

LR49-CR2.3-101 CASE CONSOLIDATION

It shall be the policy of the Marion Superior Court, that wherever possible consistent with good case management principles, cases involving the same defendant shall be consolidated into one court for resolution of all of the pending cases.

(a) **Murder, A, B and C Felony Cases (hereinafter “Major Felony case”)**

Any subsequently filed Major Felony case shall be assigned and/or transferred to the Court where the defendant’s oldest Major Felony case is pending.

Any subsequently filed D Felony or Misdemeanor Case shall be assigned and/or transferred to the Court where the defendant’s oldest Major Felony case is pending.

In the event the defendant has an open D Felony or Misdemeanor case pending in any criminal court and is subsequently charged with a Major Felony case, the pending D Felony or Misdemeanor case shall be transferred to the Major Felony Court.

In the event the defendant has an open probation case pending in any criminal court and is subsequently charged with a Major Felony case, the probation case shall be transferred to the Major Felony Court, unless the probation case can be resolved without the resolution of the new Major Felony case.

“Pending” as defined herein means any existing Major Felony, D Felony or Misdemeanor case which is in pre-disposition status.

No classification of cases is exempt from consolidation under this subparagraph.

(b) **D Felony Cases**

Any subsequently filed Misdemeanor or Class D Felony case shall be assigned and/or transferred to the Court where the defendant’s oldest existing Class D Felony case is pending.

In the event the defendant has an open Misdemeanor case in any criminal court and is subsequently charged with a D Felony case, the Misdemeanor case shall be transferred to the D Felony Court.

In the event the defendant has an open probation case pending in any D Felony or Misdemeanor Court and is subsequently charged with a D Felony case, the probation case shall be transferred to the D Felony Court where the new case has been filed, unless the probation case can be resolved without the resolution of the new D Felony case.

“Pending” as defined herein means any existing Class D Felony or Misdemeanor case which is in pre-disposition status.

This rule shall not apply to Domestic Violence cases, cases assigned to Domestic Violence Courtrooms 16 and 17 or cases that are linked with a co-defendant. However, if one of the co-defendants is eligible for transfer to Court 8, per subsections (d), then the eligible co-defendants case may be severed and transferred to Court 8 without the non-eligible co-defendant(s) case(s).

(c) **Misdemeanor Cases**

Subject to the provisions of paragraphs (a) and (b) above, any subsequent Misdemeanor case filed against a defendant shall be assigned and/or transferred to the Court where the defendant's oldest existing Misdemeanor case is pending with the exception that Court 13 (Traffic Court) shall not receive assignment or transfer of cases when Court 13 has the oldest pending case.

In the event the defendant has an open probation case pending in any Misdemeanor Court and is subsequently charged with a new Misdemeanor case, the probation case shall be transferred to the new Misdemeanor Court unless the probation case can be resolved without the resolution of the new Misdemeanor case.

Pending as defined herein means any existing Misdemeanor case which is in pre-disposition status.

This rule shall not apply to Domestic Violence cases, cases assigned to Domestic Violence Courtrooms 16 and 17, or cases that are linked with co-defendants.

However, if one of the co-defendants is eligible for transfer to Court 8, per subsections (d), then the eligible co-defendants case may be severed and transferred to Court 8 without the non-eligible co-defendant(s) case(s).

- (d) All Misdemeanor and D Felony cases in which the defendant has a mental illness and /or mental disability shall be transferred to mental health court, subject to the discretion of the Judge in that court and considering the recommendation of the originating judge, prosecutor, and/or defense counsel.

(e) **Other Considerations**

In the event that a case involves both felony and misdemeanor offenses, pursuant to Administrative Rule 1, the case shall be considered a Felony case for the application of this rule.

It shall be the responsibility of the Prosecutor's Office Screening Department to provide a listing of all pending cases with the case filing documents to ensure that all case transfers can be made consistent with this rule.

The judge of each room of the criminal division, by appropriate order entered of record may transfer and re-assign to any other room of the criminal division any cause pending in that room subject to acceptance by the receiving court. Further the Presiding Judge of the Criminal Division or the Executive Committee may order the transfer of cases from one court to another if the Presiding Judge or the Executive Committee finds that a transfer and reassignment of cases is necessary to provide for the speedy and fair administration of justice.

All cases received by the criminal division on change of venue from outside Marion County shall be assigned to a room within the division on a random basis by the same method used to assign cases of original jurisdiction in Marion County.

When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be re-filed in the court where the case was originally docketed. All pleadings, petitions and motions shall be filed with the Clerk designated by the court at any time during filing hours established by the Clerk and the court and shall be accompanied by a proposed order. All orders submitted to the court shall be in sufficient number and shall be accompanied by postage paid envelopes addressed to each party or counsel of record. Service of orders on the Marion County Prosecutor and the Marion County Public Defender Agency may be through mailbox service established in each courtroom.